

HIGHWAY SAFETY

**TITLE 23, UNITED STATES CODE,
CHAPTER 4**

AND

RELATED HIGHWAY SAFETY PROVISIONS

ADMINISTERED BY THE

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

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CONTENTS

CHAPTER 4. -- HIGHWAY SAFETY

	Page
Sec.	
401. Authority of the Secretary.....	1
402. Highway safety programs.....	1
403. Highway safety research and development.....	6
404. National Highway Safety Advisory Committee.....	8
405. Occupant protection incentive grants.....	9
406. School bus driver training.....	11
407. Innovative project grants.....	12
408. Alcohol traffic safety programs.....	12
409. Discovery and admission as evidence of certain reports and surveys.....	15
410. Alcohol-impaired driving countermeasures.....	15
411. State highway safety data improvements.....	18

RELATED HIGHWAY SAFETY PROVISIONS

CHAPTER 1. – FEDERAL-AID HIGHWAYS

Sec.		
153.	Use of safety belts and motorcycle helmets.....	22
154.	Open container requirements.....	25
157.	Safety incentive grants for use of seat belts.....	27
158.	National minimum drinking age.....	29
161.	Operation of motor vehicles by intoxicated minors.....	30
163.	Safety incentives to prevent operation of motor vehicles by intoxicated persons.....	31
	Withholding provision.....	32
164.	Minimum penalties for repeat offenders for driving while intoxicated or driving under the influence.....	32

PUBLIC LAW 105-178 (TRANSPORTATION EQUITY ACT FOR THE 21ST CENTURY)

Sec.

2009. Authorizations of Appropriations.....	35
5207. Research and Development [Intelligent Transportation Systems].....	36

CHAPTER 4. -- HIGHWAY SAFETY

- Sec.
- 401. Authority of the Secretary.
 - 402. Highway safety programs.
 - 403. Highway safety research and development.
 - 404. National Highway Safety Advisory Committee.
 - 405. Occupant protection incentive grants.
 - 406. School bus driver training.
 - 407. Innovative project grants.
 - 408. Alcohol traffic safety programs.
 - 409. Discovery and admission as evidence of certain reports and surveys.
 - 410. Alcohol-impaired driving countermeasures.
 - 411. State highway safety data improvements.

§ 401. Authority of the Secretary

The Secretary is authorized and directed to assist and cooperate with other Federal departments and agencies, State and local governments, private industry, and other interested parties, to increase highway safety. For the purposes of this chapter [23 USCS §§ 401 et seq.], the term "State" means any one of the fifty States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

§ 402. Highway safety programs

(a) Each State shall have a highway safety program approved by the Secretary, designed to reduce traffic accidents and deaths, injuries, and property damage resulting therefrom. Such programs shall be in accordance with uniform guidelines promulgated by the Secretary. Such uniform guidelines shall be promulgated by the Secretary so as to improve driver performance (including, but not limited to, driver education, driver testing to determine proficiency to operate motor vehicles, driver examinations (both physical and mental) and driver licensing) and to improve pedestrian performance and bicycle safety. In addition, such uniform guidelines shall include programs (1) to reduce injuries and deaths resulting from motor vehicles being driven in

excess of posted speed limits, (2) to encourage the proper use of occupant protection devices (including the use of safety belts and child restraint systems) by occupants of motor vehicles and to increase public awareness of the benefit of motor vehicles equipped with airbags, (3) to reduce deaths and injuries resulting from persons driving motor vehicles while impaired by alcohol or a controlled substance, (4) to prevent accidents and reduce deaths and injuries resulting from accidents involving motor vehicles and motorcycles, (5) to reduce injuries and deaths resulting from accidents involving school buses, and (6) to improve law enforcement services in motor vehicle accident prevention, traffic supervision, and post-accident procedures. The Secretary shall establish a highway safety program for the collection and reporting of data on traffic-related deaths and injuries by the States. Under such program, the States shall collect and report such data as the Secretary may require. The purposes of the program are to ensure national uniform data on such deaths and injuries and to allow the Secretary to make determinations for use in developing programs to reduce such deaths and injuries and making recommendations to Congress concerning legislation necessary to implement such programs. The program shall provide for annual reports to the Secretary on the efforts being made by the States in reducing deaths and injuries occurring at highway construction sites and the effectiveness and results of such efforts. The Secretary shall establish minimum reporting criteria for the program. Such criteria shall include, but not be limited to, criteria on deaths and injuries resulting from police pursuits, school bus accidents, and speeding, on traffic-related deaths and injuries at highway construction sites and on the configuration of commercial motor vehicles involved in motor vehicle accidents. In addition such uniform guidelines shall include, but not be limited to, provisions for an effective record system of accidents (including injuries and deaths resulting therefrom), accident investigations to determine the probable causes of accidents, injuries, and deaths, vehicle registration, operation, and inspection, highway design and maintenance (including lighting, markings, and surface treatment), traffic control, vehicle codes and laws, surveillance of traffic for detection and correction of high or potentially high accident locations, enforcement of light transmission standards of window glazing for passenger motor vehicles and light trucks as necessary to improve highway safety, and emergency services. Such guidelines as are applicable to State highway safety programs shall, to the extent determined appropriate by the Secretary, be applicable to federally administered areas where a Federal department or agency controls the highways or supervises traffic operations.

(b) Administration of State programs.

(1) Administrative requirements. The Secretary may not approve a State highway safety program under this section which does not--

(A) provide that the Governor of the State shall be responsible for the administration of the program through a State highway safety agency which shall have adequate powers and be suitably equipped and organized to carry out, to the satisfaction of the Secretary, such program;

(B) authorize political subdivisions of the State to carry out local highway safety programs within their jurisdictions as a part of the State highway safety program if such local highway safety programs are approved by the Governor and are in accordance with the minimum standards established by the Secretary under this section;

(C) except as provided in paragraph (3), provide that at least 40 percent of all Federal funds

apportioned under this section to the State for any fiscal year will be expended by the political subdivisions of the State, including Indian tribal governments, in carrying out local highway safety programs authorized in accordance with subparagraph (B); and

(D) provide adequate and reasonable access for the safe and convenient movement of individuals with disabilities, including those in wheelchairs, across curbs constructed or replaced on or after July 1, 1976, at all pedestrian crosswalks throughout the State.

(2) Waiver. The Secretary may waive the requirement of paragraph (1)(C), in whole or in part, for a fiscal year for any State whenever the Secretary determines that there is an insufficient number of local highway safety programs to justify the expenditure in the State of such percentage of Federal funds during the fiscal year.

(3) Use of technology for traffic enforcement. The Secretary may encourage States to use technologically advanced traffic enforcement devices (including the use of automatic speed detection devices such as photo-radar) by law enforcement officers.

(c) Funds authorized to be appropriated to carry out this section shall be used to aid the States to conduct the highway safety programs approved in accordance with subsection (a), including development and implementation of manpower training programs, and of demonstration programs that the Secretary determines will contribute directly to the reduction of accidents, and deaths and injuries resulting therefrom. Such funds shall be subject to a deduction not to exceed 5 per centum for the necessary costs of administering the provisions of this section, and the remainder shall be apportioned among the several States. Such funds shall be apportioned 75 per centum in the ratio which the population of each State bears to the total population of all the States, as shown by the latest available Federal census, and 25 per centum in the ratio which the public road mileage in each State bears to the total public road mileage in all States. For the purposes of this subsection, a "public road" means any road under the jurisdiction of and maintained by a public authority and open to public travel. Public road mileage as used in this subsection shall be determined as of the end of the calendar year preceding the year in which the funds are apportioned and shall be certified to by the Governor of the State and subject to approval by the Secretary. The annual apportionment to each State shall not be less than one-half of 1 per centum of the total apportionment, except that the apportionment to the Secretary of the Interior shall not be less than three-fourths of 1 percent of the total apportionment and the apportionments to the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands shall not be less than one-quarter of 1 per centum of the total apportionment. The Secretary shall not apportion any funds under this subsection to any State which is not implementing a highway safety program approved by the Secretary in accordance with this section. For the purpose of the seventh sentence of this subsection, a highway safety program approved by the Secretary shall not include any requirement that a State implement such a program by adopting or enforcing any law, rule, or regulation based on a guideline promulgated by the Secretary under this section requiring any motorcycle operator eighteen years of age or older or passenger eighteen years of age or older to wear a safety helmet when operating or riding a motorcycle on the streets and highways of that State. Implementation of a highway safety program under this section shall not be construed to require the Secretary to require compliance with every uniform guideline, or with every element of every uniform

guideline, in every State. Funds apportioned under this section to any State, that does not have a highway safety program approved by the Secretary or that is not implementing an approved program, shall be reduced by amounts equal to not less than 50 per centum of the amounts that would otherwise be apportioned to the State under this section, until such time as the Secretary approves such program or determines that the State is implementing an approved program, as appropriate. The Secretary shall consider the gravity of the State's failure to have or implement an approved program in determining the amount of the reduction. The Secretary shall promptly apportion to the State the funds withheld from its apportionment if he approves the State's highway safety program or determines that the State has begun implementing an approved program, as appropriate, prior to the end of the fiscal year for which the funds were withheld. If the Secretary determines that the State did not correct its failure within such period, the Secretary shall reapportion the withheld funds to the other States in accordance with the formula specified in this subsection not later than 30 days after such determination.

(d) All provisions of chapter 1 of this title [23 USCS §§ 101 et seq.] that are applicable to National Highway System highway funds other than provisions relating to the apportionment formula and provisions limiting the expenditure of such funds to the Federal-aid systems, shall apply to the highway safety funds authorized to be appropriated to carry out this section, except as determined by the Secretary to be inconsistent with this section, and except that the aggregate of all expenditures made during any fiscal year by a State and its political subdivisions (exclusive of Federal funds) for carrying out the State highway safety program (other than planning and administration) shall be available for the purpose of crediting such State during such fiscal year for the non-Federal share of the cost of any project under this section (other than one for planning or administration) without regard to whether such expenditures were actually made in connection with such project and except that, in the case of a local highway safety program carried out by an Indian tribe, if the Secretary is satisfied that an Indian tribe does not have sufficient funds available to meet the non-Federal share of the cost of such program, he may increase the Federal share of the cost thereof payable under this Act to the extent necessary. In applying such provisions of chapter 1 [23 USCS §§ 101 et seq.] in carrying out this section the term "State transportation department" as used in such provisions shall mean the Governor of a State for the purposes of this section.

(e) Uniform guidelines promulgated by the Secretary to carry out this section shall be developed in cooperation with the States, their political subdivisions, appropriate Federal departments and agencies, and such other public and private organizations as the Secretary deems appropriate.

(f) The Secretary may make arrangements with other Federal departments and agencies for assistance in the preparation of uniform guidelines for the highway safety programs contemplated by subsection (a) and in the administration of such programs. Such departments and agencies are directed to cooperate in such preparation and administration, on a reimbursable basis.

(g) Nothing in this section authorizes the appropriation or expenditure of funds for (1) highway

construction, maintenance, or design (other than design of safety features of highways to be incorporated into guidelines) or (2) any purpose for which funds are authorized by section 403 of this title.

(h) [Repealed]

(i) Application in Indian country.

(1) Use of terms. For the purpose of application of this section in Indian country, the terms "State" and "Governor of a State" include the Secretary of the Interior and the term "political subdivision of a State" includes an Indian tribe.

(2) Expenditures for local highway programs. Notwithstanding subsection (b)(1)(C), 95 percent of the funds apportioned to the Secretary of the Interior under this section shall be expended by Indian tribes to carry out highway safety programs within their jurisdictions.

(3) Access for individuals with disabilities. The requirements of subsection (b)(1)(D) shall be applicable to Indian tribes, except to those tribes with respect to which the Secretary determines that application of such provisions would not be practicable.

(4) Indian country defined. In this subsection, the term "Indian country" means--

(A) all land within the limits of any Indian reservation under the jurisdiction of the United States, notwithstanding the issuance of any patent and including rights-of-way running through the reservation;

(B) all dependent Indian communities within the borders of the United States, whether within the original or subsequently acquired territory thereof and whether within or without the limits of a State; and

(C) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through such allotments.

(j) Rulemaking proceeding. The Secretary may periodically conduct a rulemaking process to identify highway safety programs that are highly effective in reducing motor vehicle crashes, injuries, and deaths. Any such rulemaking shall take into account the major role of the States in implementing such programs. When a rule promulgated in accordance with this section takes effect, States shall consider these highly effective programs when developing their highway safety programs.

(k)(1) Subject to the provisions of this subsection, the Secretary shall make a grant to any State which includes, as part of its highway safety program under section 402 of this title [this section], the use of a comprehensive computerized safety recordkeeping system designed to correlate data regarding traffic accidents, drivers, motor vehicles, and roadways. Any such grant may only be used by such State to establish and maintain a comprehensive computerized traffic safety recordkeeping system or to obtain and operate components to support highway safety priority

programs identified by the Secretary under this section. Notwithstanding any other provision of law, if a report, list, schedule, or survey is prepared by or for a State or political subdivision thereof under this subsection, such report, list, schedule, or survey shall not be admitted as evidence or used in any suit or action for damages arising out of any matter mentioned in such report, list, schedule, or survey.

(2) No State may receive a grant under this subsection in more than two fiscal years.

(3) The amount of the grant to any State under this subsection for the first fiscal year such State is eligible for a grant under this subsection shall equal 10 per centum of the amount apportioned to such State for fiscal year 1985 under this section. The amount of a grant to any State under this subsection for the second fiscal year such State is eligible for a grant under this subsection shall equal 10 per centum of the amount apportioned to such State for fiscal year 1986 under this section.

(4) A State is eligible for a grant under this subsection if—

(A) it certifies to the Secretary that it has in operation a computerized traffic safety recordkeeping system and identifies proposed means of upgrading the system acceptable to the Secretary; or

(B) it provides to the Secretary a plan acceptable to the Secretary for establishing and maintaining a computerized traffic safety recordkeeping system.

(5) The Secretary, after making the deduction authorized by the second sentence of subsection (c) of this section for fiscal years 1985 and 1986, shall set aside 10 per centum of the remaining funds authorized to be appropriated to carry out this section for the purpose of making grants under this subsection. Funds set aside under this subsection shall remain available for the fiscal year authorized and for the succeeding fiscal year and any amounts remaining unexpended at the end of such period shall be apportioned in accordance with the provisions of subsection (c) of this section.

§ 403. Highway safety research and development

(a) Authority of the Secretary.

(1) In general. The Secretary is authorized to use funds appropriated to carry out this section to engage in research on all phases of highway safety and traffic conditions.

(2) Additional authority. In addition, the Secretary may use the funds appropriated to carry out this section, either independently or in cooperation with other Federal departments or agencies, for—

(A) training or education of highway safety personnel, including training in work zone safety management,

(B) research fellowships in highway safety,

(C) development of improved accident investigation procedures,

(D) emergency service plans,

(E) demonstration projects, and

(F) related research and development activities which the Secretary deems will promote the purposes of this section.

(3) Safety defined. As used in this section, the term "safety" includes highway safety and

highway safety-related research and development, including research and development relating to highway and driver characteristics, crash investigations, communications, emergency medical care, and transportation of the injured.

(b) Drugs and driver behavior. In addition to the research authorized by subsection (a), the Secretary, in consultation with other Government and private agencies as may be necessary, is authorized to carry out safety research on the following:

(1) The relationship between the consumption and use of drugs and their effect upon highway safety and drivers of motor vehicles.

(2) Driver behavior research, including the characteristics of driver performance, the relationships of mental and physical abilities or disabilities to the driving task, and the relationship of frequency of driver crash involvement to highway safety.

(3) Measures that may deter drugged driving.

(4) Programs to train law enforcement officers on motor vehicle pursuits conducted by the officers.

(c) The research authorized by subsections (a) and (b) of this section may be conducted by the Secretary through grants and contracts with public and private agencies, institutions, and individuals.

(d) The Secretary may, where he deems it to be in furtherance of the purposes of section 402 of this title, vest in State or local agencies, on such terms and conditions as he deems appropriate, title to equipment purchased for demonstration projects with funds authorized by this section.

(e) In addition to the research authorized by subsection (a) of this section, the Secretary shall, either independently or in cooperation with other Federal departments or agencies, conduct research into, and make grants to or contracts with State or local agencies, institutions, and individuals for projects to demonstrate the administrative adjudication of traffic infractions. Such administrative adjudication demonstration projects shall be designed to improve highway safety by developing fair, efficient, and effective processes and procedures for traffic infraction adjudication, utilizing appropriate punishment, training, and rehabilitative measures for traffic offenders. The Secretary shall report to Congress by July 1, 1975, and each year thereafter during the continuance of the program, on the research and demonstration projects authorized by this subsection, and shall include in such report a comparison of the fairness, efficiency, and effectiveness of administrative adjudication of traffic infractions with other methods of handling such infractions.

(f) Collaborative research and development.

(1) In general. For the purpose of encouraging innovative solutions to highway safety problems, stimulating voluntary improvements in highway safety, and stimulating the marketing of new highway safety-related technology by private industry, the Secretary is authorized to undertake, on a cost-shared basis, collaborative research and development with non-Federal entities, including State and local governments, colleges, and universities and corporations,

partnerships, sole proprietorships, and trade associations that are incorporated or established under the laws of any State or the United States. This collaborative research may include crash data collection and analysis; driver and pedestrian behavior; and demonstrations of technology.

(2) Cooperative agreements. In carrying out this subsection, the Secretary may enter into cooperative research and development agreements, as defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (*15 U.S.C. 3710a*); except that in entering into such agreements, the Secretary may agree to provide not more than 50 percent of the cost of any research or development project selected by the Secretary under this subsection.

(3) Project selection. In selecting projects to be conducted under this subsection, the Secretary shall establish a procedure to consider the views of experts and the public concerning the project areas.

(4) Applicability of Stevenson-Wydler Technology Innovation Act [*15 USCS §§ 3701 et seq.*]. The research, development, or utilization of any technology pursuant to an agreement under the provisions of this subsection, including the terms under which technology may be licensed and the resulting royalties may be distributed, shall be subject to the provisions of the Stevenson-Wydler Technology Innovation Act of 1980 [*15 USCS §§ 3701 et seq.*].

§ 404. National Highway Safety Advisory Committee

(a) (1) There is established in the Department of Transportation a National Highway Safety Advisory Committee, composed of the Secretary or an officer of the Department appointed by him, the Federal Highway Administrator, the National Highway Traffic Safety Administrator, and thirty-five members appointed by the President, no more than four of whom shall be Federal officers or employees. The Secretary shall select the Chairman of the Committee from among the Committee members. The appointed members, having due regard for the purposes of this chapter [*23 USCS §§ 401 et seq.*], shall be selected from among representatives of various State and local governments, including State legislatures, of public and private interests contributing to, affected by, or concerned with highway safety, including the national organizations of passenger car, bus, and truck owners, and of other public and private agencies, organizations, or groups demonstrating an active interest in highway safety, as well as research scientists and other individuals who are expert in this field.

(2) (A) Each member appointed by the President shall hold office for a term of three years, except that (i) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and (ii) the terms of office of members first taking office after the date of enactment of this section [Sept. 9, 1966] shall expire as follows: Twelve at the end of one year after the date such committee members are appointed by the President, twelve at the end of two years after the date such committee members are appointed by the President, and eleven at the end of three years after the date such committee members are appointed, as designated by the President at the time of appointment, and (iii) the term of any member shall be extended until the date on which the successor's appointment is effective. None of the members appointed by the President who has

served a three-year term, other than Federal officers or employees, shall be eligible for reappointment within one year following the end of his preceding term.

(B) Members of the Committee who are not officers or employees of the United States shall, while attending meetings or conferences of such Committee or otherwise engaged in the business of such Committee, be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding \$100 per diem, including traveltime, and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of

subsistence, as authorized in section 5 of the Administrative Expenses Act of 1946 (*5 U.S.C. 73b-2*) for persons in the Government service employed intermittently. Payments under this section shall not render members of the Committee employees or officials of the United States for any purpose.

(b) The National Highway Safety Advisory Committee shall advise, consult with, and make recommendations to, the Secretary on matters relating to the activities and functions of the Department in the field of highway safety. The Committee is authorized (1) to review research projects or programs submitted to or recommended by it in the field of highway safety and recommended to the Secretary, for prosecution under this title, any such projects which it believes show promise of making valuable contributions to human knowledge with respect to the cause and prevention of highway accidents; and (2) to review, prior to issuance, standards proposed to be issued by order of the Secretary under the provisions of section 402(a) of this title and to make recommendations thereon. Such recommendations shall be published in connection with the Secretary's determination or order.

(c) The National Highway Safety Advisory Committee shall meet from time to time as the Secretary shall direct, but at least once each year.

(d) The Secretary shall provide to the National Highway Safety Committee from among the personnel and facilities of the Department of Commerce [Department of Transportation] such staff and facilities as are necessary to carry out the functions of such Committee.

§ 405. Occupant protection incentive grants

(a) General authority.

(1) Authority to make grants. Subject to the requirements of this section, the Secretary shall make grants under this section to States that adopt and implement effective programs to reduce highway deaths and injuries resulting from individuals riding unrestrained or improperly restrained in motor vehicles. Such grants may be used by recipient States only to implement and enforce, as appropriate, such programs.

(2) Maintenance of effort. No grant may be made to a State under this section in any fiscal year unless the State enters into such agreements with the Secretary as the Secretary may require to ensure that the State will maintain its aggregate expenditures from all other sources for programs described in paragraph (1) at or above the average level of such expenditures in its 2 fiscal years

preceding the date of enactment of the Transportation Equity Act for the 21st Century [enacted June 9, 1998].

(3) Maximum period of eligibility. No State may receive grants under this section in more than 6 fiscal years beginning after September 30, 1997.

(4) Federal share. The Federal share of the cost of implementing and enforcing, as appropriate, in a fiscal year a program adopted by a State pursuant to paragraph (1) shall not exceed--

(A) in each of the first and second fiscal years in which the State receives a grant under this section, 75 percent;

(B) in each of the third and fourth fiscal years in which the State receives a grant under this section, 50 percent; and

(C) in each of the fifth and sixth fiscal years in which the State receives a grant under this section, 25 percent.

(b) Grant eligibility. A State shall become eligible for a grant under this section by adopting or demonstrating to the satisfaction of the Secretary at least 4 of the following:

(1) Safety belt use law. The State has in effect a safety belt use law that makes unlawful throughout the State the operation of a passenger motor vehicle whenever an individual (other than a child who is secured in a child restraint system) in the front seat of the vehicle (and, beginning in fiscal year 2001, in any seat in the vehicle) does not have a safety belt properly secured about the individual's body.

(2) Primary safety belt use law. The State provides for primary enforcement of the safety belt use law of the State.

(3) Minimum fine or penalty points. The State imposes a minimum fine or provides for the imposition of penalty points against the driver's license of an individual--

(A) for a violation of the safety belt use law of the State; and

(B) for a violation of the child passenger protection law of the State.

(4) Special traffic enforcement program. The State has implemented a statewide special traffic enforcement program for occupant protection that emphasizes publicity for the program.

(5) Child passenger protection education program. The State has implemented a statewide comprehensive child passenger protection education program that includes education programs about proper seating positions for children in air bag equipped motor vehicles and instruction on how to reduce the improper use of child restraint systems.

(6) Child passenger protection law. The State has in effect a law that requires minors who are riding in a passenger motor vehicle to be properly secured in a child safety seat or other appropriate restraint system.

(c) Grant amounts. The amount of a grant for which a State qualifies under this section for a fiscal year shall equal up to 25 percent of the amount apportioned to the State for fiscal year 1997 under section 402.

(d) Administrative expenses. Funds authorized to be appropriated to carry out this section in a

fiscal year shall be subject to a deduction not to exceed 5 percent for the necessary costs of administering the provisions of this section.

(e) Applicability of Chapter 1 [23 USCS §§ 101 et seq.]. The provisions contained in section 402(d) shall apply to this section.

(f) Definitions. In this section, the following definitions apply:

(1) Child safety seat. The term "child safety seat" means any device (except safety belts) designed for use in a motor vehicle to restrain, seat, or position a child who weighs 50 pounds or less.

(2) Motor vehicle. The term "motor vehicle" means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public streets, roads, and highways, but does not include a vehicle operated only on a rail line.

(3) Multipurpose passenger vehicle. The term "multipurpose passenger vehicle" means a motor vehicle with motive power (except a trailer), designed to carry not more than 10 individuals, that is constructed either on a truck chassis or with special features for occasional off-road operation.

(4) Passenger car. The term "passenger car" means a motor vehicle with motive power (except a multipurpose passenger vehicle, motorcycle, or trailer) designed to carry not more than 10 individuals.

(5) Passenger motor vehicle. The term "passenger motor vehicle" means a passenger car or a multipurpose passenger motor vehicle.

(6) Safety belt. The term "safety belt" means--

(A) with respect to open-body passenger vehicles, including convertibles, an occupant restraint system consisting of a lap belt or a lap belt and a detachable shoulder belt; and

(B) with respect to other passenger vehicles, an occupant restraint system consisting of integrated lap and shoulder belts.

§ 406. School bus driver training

(a) The Secretary is authorized to make grants to the States for the purpose of carrying out State programs approved by him of driver education and training for persons driving school buses.

(b) A State program under this section shall be approved by the Secretary if such program--

(1) provides for the establishment and enforcement of qualifications for persons driving school buses;

(2) provides for initial education and training and for refresher courses;

(3) provides for periodic reports to the Secretary on the results of such program; and

(4) includes persons driving publicly operated, and persons driving privately operated, school buses.

(c) Not less than \$7,500,000 of the sums authorized to carry out section 402 of this title for fiscal year 1976 shall be obligated to carry out this section. Not less than \$7,000,000 of the sums authorized to carry out section 402 of this title for each of the fiscal years 1977 and 1978 shall be

obligated to carry out this section. All sums authorized to carry out this section shall be apportioned among the States in accordance with the formula established under subsection (c) of section 402 of this title, and shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under such subsection (c). The Federal share payable on account of any project to carry out a program under this section shall not exceed 75 per centum of the cost of the project.

§ 407. Innovative project grants

(a) In addition to other grants authorized by this chapter [23 USCS §§ 401 et seq.], the Secretary may make grants in any fiscal year to those States, political subdivisions thereof, and nonprofit organizations which develop innovative approaches to highway safety problems in accordance with criteria to be established by the Secretary in cooperation with the States, political subdivisions thereof, and such nonprofit organizations as the Secretary deems appropriate.

(b) The Secretary shall establish a procedure for the selection of grant applications submitted under this section. In developing such procedure, the Secretary shall consult with the States and political subdivisions thereof, appropriate Federal departments and agencies, and such other public and nonprofit organizations as the Secretary deems appropriate.

(c) Any State, political subdivision thereof, and nonprofit organization may make an application under this section to carry out an innovative project described in subsection (a) of this section. Such application shall be in such form and contain such information as the Secretary, by regulation, prescribes.

(d) Not to exceed 2 per centum of the funds authorized to be appropriated to carry out this section shall be available to the Secretary for the necessary costs of administering the provisions of this section.

(e) The Secretary shall submit an annual report to the Congress which provides a description of each application received for a grant under this section and an evaluation of innovative projects carried out with grants made under this section.

§ 408. Alcohol traffic safety programs

(a) Subject to the provisions of this section, the Secretary shall make grants to those States which adopt and implement effective programs to reduce traffic safety problems resulting from persons driving while under the influence of alcohol. or a controlled substance[.] Such grants may only be used by recipient States to implement and enforce such programs.

(b) No grant may be made to a State under this section in any fiscal year unless such State enters into such agreements with the Secretary as the Secretary may require to ensure that such State will maintain its aggregate expenditures from all other sources for alcohol traffic safety programs at or above the average level of such expenditures in its two fiscal years preceding the date of enactment of this section [Oct. 25, 1982].

(c) No State may receive grants under this section in more than 5 fiscal years. The Federal share payable for any grant under this section shall not exceed--

(1) in the first fiscal year the State receives a grant under this section, 75 per centum of the cost of implementing and enforcing in such fiscal year the alcohol traffic safety program adopted by the State pursuant to subsection (a);

(2) in the second fiscal year the State receives a grant under this section, 50 per centum of the cost of implementing and enforcing in such fiscal year such program; and

(3) in the third, fourth, and fifth fiscal years the State receives a grant under this section, 25 per centum of the cost of implementing and enforcing in such fiscal year such program.

(d) (1) Subject to subsection (c), the amount of a basic grant made under this section for any fiscal year to any State which is eligible for such a grant under subsection (e)(1) shall equal 30 per centum of the amount apportioned to such State for fiscal year 1983 under section 402 of this title.

(2) Subject to subsection (c), the amount of a supplemental grant made under this section for any fiscal year to any State which is eligible for such a grant under subsection (e)(2) shall not exceed 20 per centum of the amount apportioned to such State for fiscal year 1983 under section 402 of this title. Such supplemental grant shall be in addition to any basic grant received by such State.

(3) Subject to subsection (c), the amount of a special grant made under this section for any fiscal year to any State which is eligible for such a grant under subsection (e)(3) shall not exceed 5 per centum of the amount apportioned to such State for fiscal year 1984 under sections 402 and 408 of this title. Such grant shall be in addition to any basic or supplemental grant received by such State.

(e) (1) For purposes of this section, a State is eligible for a basic grant if such State provides--

(A) for the prompt suspension, for a period not less than ninety days in the case of a first offender and not less than one year in the case of any repeat offender, of the driver's license of any individual who a law enforcement officer has probable cause under State law to believe has committed an alcohol-related traffic offense, and (i) to whom is administered one or more chemical tests to determine whether the individual was intoxicated while operating the motor vehicle and who is determined, as a result of such tests, to be intoxicated, or (ii) who refuses to submit to such a test as proposed by the officer;

(B) for a mandatory sentence, which shall not be subject to suspension or probation, of (i) imprisonment for not less than forty-eight consecutive hours, or (ii) not less than ten days of community service, of any person convicted of driving while intoxicated more than once in any

five-year period;

(C) that any person with a blood alcohol concentration of 0.10 percent or greater when driving a motor vehicle shall be deemed to be driving while intoxicated; and

(D) for increased efforts or resources dedicated to the enforcement of alcohol-related traffic laws and increased efforts to inform the public of such enforcement.

(2) For purposes of this section, a State is eligible for a supplemental grant if such State is eligible for a basic grant and in addition provides for some or all of the criteria established by the Secretary under subsection (f).

(3) For the purposes of this section, a State is eligible for a special grant if the State enacts a statute which provides that--

(A) any person convicted of a first violation of driving under the influence of alcohol shall receive--

(i) a mandatory license suspension for a period of not less than ninety days; and either

(ii) (I) an assignment of one hundred hours of community service; or

(II) a minimum sentence of imprisonment for forty-eight consecutive hours;

(B) any person convicted of a second violation of driving under the influence of alcohol within five years after a conviction for the same offense, shall receive a mandatory minimum sentence of imprisonment for ten days and license revocation for not less than one year;

(C) any person convicted of a third or subsequent violation of driving under the influence of alcohol within five years after a prior conviction for the same offense shall--

(i) receive a mandatory minimum sentence of imprisonment for one hundred and twenty days; and

(ii) have his license revoked for not less than three years; and

(D) any person convicted of driving with a suspended or revoked license or in violation of a restriction due to driving under the influence of alcohol conviction shall receive a mandatory sentence of imprisonment for at least thirty days, and shall upon release from imprisonment, receive an additional period of license suspension or revocation of not less than the period of suspension or revocation remaining in effect at the time of commission of the offense of driving with a suspended or revoked license.

(f) The Secretary shall, by rule, establish criteria for effective programs to reduce traffic safety problems resulting from persons driving while under the influence of alcohol, which criteria shall be in addition to those required for a basic grant under subsection (e)(1). The Secretary shall establish such criteria in cooperation with the States and political subdivisions thereof, appropriate Federal departments and agencies, and such other public and nonprofit organizations as the Secretary may deem appropriate. Such criteria may include, but need not be limited to, requirements--

(1) for the establishment and maintenance of a statewide driver recordkeeping system from which repeat offenders may be identified and which is accessible in a prompt and timely manner to the courts and to the public;

(2) for the creation and operation of rehabilitation and treatment programs for those arrested and convicted of driving while intoxicated;

- (3) for the impoundment of any vehicle operated on a State road by any individual whose driver's license is suspended or revoked for an alcohol-related driving offense;
- (4) for the establishment in each major political subdivision of a State of locally coordinated alcohol traffic safety programs which are administered by local officials and are financially self-sufficient;
- (5) for the grant of presentence screening authority to the courts;
- (6) for the setting of the minimum drinking age in such State at twenty-one years of age;
- (7) for the consideration of and, where consistent with other provisions of State law and

constitution the adoption of, recommendations that the Presidential Commission on Drunk Driving may issue during the period in which rules are being made to carry out this section; and

- (8) for the creation and operation of rehabilitation and treatment programs for those arrested and convicted of driving while under the influence of a controlled substance or for the establishment of research programs to develop effective means of detecting use of controlled substances by drivers.

(g) There is hereby authorized to be appropriated to carry out this section, out of the Highway Trust Fund, \$25,000,000 for the fiscal year ending September 30, 1983, and \$50,000,000 per fiscal year for each of the fiscal years ending September 30, 1984, and September 30, 1985. All provisions of chapter 1 of this title [23 USCS §§ 101 et seq.] that are applicable to Federal-aid primary highway funds, other than provisions relating to the apportionment formula and provisions limiting the expenditures of such funds to Federal-aid systems, shall apply to the funds authorized to be appropriated to carry out this section, except as determined by the Secretary to be inconsistent with this section and except that sums authorized by this subsection shall remain available until expended. Sums authorized by this subsection shall not be subject to any obligation limitation for State and community highway safety programs.

§ 409. Discovery and admission as evidence of certain reports and surveys

Notwithstanding any other provision of law, reports, surveys, schedules, lists, or data compiled or collected for the purpose of identifying evaluating, or planning the safety enhancement of potential accident sites, hazardous roadway conditions, or railway-highway crossings, pursuant to sections 130, 144, and 152 of this title or for the purpose of developing any highway safety construction improvement project which may be implemented utilizing Federal-aid highway funds shall not be subject to discovery or admitted into evidence in a Federal or State court proceeding or considered for other purposes in any action for damages arising from any occurrence at a location mentioned or addressed in such reports, surveys, schedules, lists, or data.

§ 410. Alcohol-impaired driving countermeasures

(a) General authority.

- (1) Authority to make grants. Subject to the requirements of this section, the Secretary shall make grants to States that adopt and implement effective programs to reduce traffic safety

problems resulting from individuals driving while under the influence of alcohol. Such grants may only be used by recipient States to implement and enforce such programs.

(2) Maintenance of effort. No grant may be made to a State under this section in any fiscal year unless the State enters into such agreements with the Secretary as the Secretary may require to ensure that the State will maintain its aggregate expenditures from all other sources for alcohol traffic safety programs at or above the average level of such expenditures in its 2 fiscal years preceding the date of enactment of the Transportation Equity Act for the 21st Century [enacted June 9, 1998].

(3) Maximum period of eligibility. No State may receive grants under this section in more than 6 fiscal years beginning after September 30, 1997.

(4) Federal share. The Federal share of the cost of implementing and enforcing in a fiscal year a program adopted by a State pursuant to paragraph (1) shall not exceed--

(A) in each of the first and second fiscal years in which the State receives a grant under this section, 75 percent;

(B) in each of the third and fourth fiscal years in which the State receives a grant under this section, 50 percent; and

(C) in each of the fifth and sixth fiscal years in which the State receives a grant under this section, 25 percent.

(b) Basic grant eligibility.

(1) Basic grant A. A State shall become eligible for a grant under this paragraph by adopting or demonstrating to the satisfaction of the Secretary at least 5 of the following:

(A) Administrative license revocation. An administrative driver's license suspension or revocation system for individuals who operate motor vehicles while under the influence of alcohol that requires that--

(i) in the case of an individual who, in any 5-year period beginning after the date of enactment of the Transportation Equity Act for the 21st Century [enacted June 9, 1998], is determined on the basis of a chemical test to have been operating a motor vehicle while under the influence of alcohol or is determined to have refused to submit to such a test as proposed by a law enforcement officer, the State agency responsible for administering drivers' licenses, upon receipt of the report of the law enforcement officer--

(I) shall suspend the driver's license of such individual for a period of not less than 90 days if such individual is a first offender in such 5-year period; and

(II) shall suspend the driver's license of such individual for a period of not less than 1 year, or revoke such license, if such individual is a repeat offender in such 5-year period; and

(ii) the suspension and revocation referred to under clause (i) shall take effect not later than 30 days after the day on which the individual refused to submit to a chemical test or received notice of having been determined to be driving under the influence of alcohol, in accordance with the procedures of the State.

(B) Underage drinking program. An effective system, as determined by the Secretary, for preventing operators of motor vehicles under age 21 from obtaining alcoholic beverages and for preventing persons from making alcoholic beverages available to individuals under age 21. Such

system may include the issuance of drivers' licenses to individuals under age 21 that are easily distinguishable in appearance from drivers' licenses issued to individuals age 21 or older and the issuance of drivers' licenses that are tamper resistant.

(C) Enforcement program. Either--

(i) a statewide program for stopping motor vehicles on a nondiscriminatory, lawful basis for the purpose of determining whether the operators of such motor vehicles are driving while under the influence of alcohol; or

(ii) a statewide special traffic enforcement program for impaired driving that emphasizes publicity for the program.

(D) Graduated licensing system. A 3-stage graduated licensing system for young drivers that includes nighttime driving restrictions during the first 2 stages, requires all vehicle occupants to be properly restrained, and makes it unlawful for a person under age 21 to operate a motor vehicle with a blood alcohol concentration of .02 percent or greater.

(E) Drivers with high BAC. Programs to target individuals with high blood alcohol concentrations who operate a motor vehicle. Such programs may include implementation of a system of graduated penalties and assessment of individuals convicted of driving under the influence of alcohol.

(F) Young adult drinking programs. Programs to reduce driving while under the influence of alcohol by individuals age 21 through 34. Such programs may include awareness campaigns; traffic safety partnerships with employers, colleges, and the hospitality industry; assessments of first-time offenders; and incorporation of treatment into judicial sentencing.

(G) Testing for BAC. An effective system for increasing the rate of testing of the blood alcohol concentrations of motor vehicle drivers involved in fatal accidents and, in fiscal year 2001 and each fiscal year thereafter, a rate of such testing that is equal to or greater than the national average.

(2) Basic grant B. A State shall become eligible for a grant under this paragraph by adopting or demonstrating to the satisfaction of the Secretary each of the following:

(A) Fatal impaired driver percentage reduction. The percentage of fatally injured drivers with 0.10 percent or greater blood alcohol concentration in the State has decreased in each of the 3 most recent calendar years for which statistics for determining such percentages are available.

(B) Fatal impaired driver percentage comparison. The percentage of fatally injured drivers with 0.10 percent or greater blood alcohol concentration in the State has been lower than the average percentage for all States in each of the calendar years referred to in subparagraph (A).

(3) Basic grant amount. The amount of a basic grant made to a State for a fiscal year under this subsection shall equal up to 25 percent of the amount apportioned to the State for fiscal year 1997 under section 402.

(c) Supplemental grants.

(1) In general. Upon receiving an application from a State, the Secretary may make supplemental grants to the State for meeting 1 or more of the following criteria:

(A) Video equipment for detection of drunk drivers. The State provides for a program to

acquire video equipment to be used in detecting persons who operate motor vehicles while under the influence of alcohol and in prosecuting those persons, and to train personnel in the use of that equipment.

(B) Self-sustaining drunk driving prevention program. The State provides for a self-sustaining drunk driving prevention program under which a significant portion of the fines or surcharges collected from individuals apprehended and fined for operating a motor vehicle while under the influence of alcohol are returned to those communities which have comprehensive programs for the prevention of such operations of motor vehicles.

(C) Reducing driving with a suspended license. The State enacts and enforces a law to reduce driving with a suspended license. Such law, as determined by the Secretary, may require a "zebra" stripe that is clearly visible on the license plate of any motor vehicle owned and operated by a driver with a suspended license.

(D) Use of passive alcohol sensors. The State provides for a program to acquire passive alcohol sensors to be used by police officers in detecting persons who operate motor vehicles while under the influence of alcohol, and to train police officers in the use of that equipment.

(E) Effective DWI tracking system. The State demonstrates an effective driving while intoxicated (DWI) tracking system. Such a system, as determined by the Secretary, may include data covering arrests, case prosecutions, court dispositions and sanctions, and provide for the linkage of such data and traffic records systems to appropriate jurisdictions and offices within the State.

(F) Other programs. The State provides for other innovative programs to reduce traffic safety problems resulting from individuals driving while under the influence of alcohol or controlled substances, including programs that seek to achieve such a reduction through legal, judicial, enforcement, educational, technological, or other approaches.

(2) Eligibility. A State shall be eligible to receive a grant under this subsection in a fiscal year only if the State is eligible to receive a grant under subsection (b) in such fiscal year.

(3) Funding. Of the amounts made available to carry out this section in a fiscal year, not to exceed 10 percent shall be available for making grants under this subsection.

(d) Administrative expenses. Funds authorized to be appropriated to carry out this section in a fiscal year shall be subject to a deduction not to exceed 5 percent for the necessary costs of administering the provisions of this section.

(e) Applicability of Chapter 1 [23 USCS §§ 101 et seq.]. The provisions contained in section 402(d) shall apply to this section.

(f) Definitions. In this section, the following definitions apply:

(1) Alcoholic beverage. The term "alcoholic beverage" has the meaning given such term in section 158(c).

(2) Controlled substances. The term "controlled substances" has the meaning given such term in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)).

(3) Motor vehicle. The term "motor vehicle" has the meaning given such term in section 405.

§ 411. State highway safety data improvements

(a) General authority.

(1) Authority to make grants. Subject to the requirements of this section, the Secretary shall make grants to States that adopt and implement effective programs--

(A) to improve the timeliness, accuracy, completeness, uniformity, and accessibility of the

data of the State that is needed to identify priorities for national, State, and local highway and traffic safety programs;

(B) to evaluate the effectiveness of efforts to make such improvements;

(C) to link these State data systems, including traffic records, with other data systems within the State, such as systems that contain medical and economic data; and

(D) to improve the compatibility of the data system of the State with national data systems and data systems of other States and to enhance the ability of the Secretary to observe and analyze national trends in crash occurrences, rates, outcomes, and circumstances.

Such grants may be used by recipient States only to implement such programs.

(2) Model data elements. The Secretary, in consultation with States and other appropriate parties, shall determine the model data elements necessary to observe and analyze national trends in crash occurrences, rates, outcomes, and circumstances. In order to become eligible for a grant under this section, a State shall demonstrate how the multiyear highway safety data and traffic records plan of the State described in subsection (b)(1) will be incorporated into data systems of the State.

(3) Maintenance of effort. No grant may be made to a State under this section in any fiscal year unless the State enters into such agreements with the Secretary as the Secretary may require to ensure that the State will maintain its aggregate expenditures from all other sources for highway safety data programs at or above the average level of such expenditures in its 2 fiscal years preceding the date of enactment of the Transportation Equity Act for the 21st Century [enacted June 9, 1998].

(4) Maximum period of eligibility. No State may receive grants under this section in more than 6 fiscal years beginning after September 30, 1997.

(5) Federal share. The Federal share of the cost of implementing and enforcing, as appropriate, in a fiscal year a program adopted by a State pursuant to paragraph (1) shall not exceed--

(A) in the first and second fiscal years in which the State receives a grant under this section, 75 percent;

(B) in the third and fourth fiscal years in which the State receives a grant under this section, 50 percent; and

(C) in the fifth and sixth fiscal years in which the State receives a grant under this section, 25 percent.

(b) First-year grants.

(1) Eligibility. A State shall become eligible for a first-year grant under this subsection in a fiscal year if the State either--

(A) demonstrates, to the satisfaction of the Secretary, that the State has--

(i) established a highway safety data and traffic records coordinating committee with a multidisciplinary membership, including the administrators, collectors, and users of such data (including the public health, injury control, and motor carrier communities);

(ii) completed, within the preceding 5 years, a highway safety data and traffic records assessment or an audit of the highway safety data and traffic records system of the State; and

(iii) initiated the development of a multiyear highway safety data and traffic records strategic plan that--

(I) identifies and prioritizes the highway safety data and traffic records needs and goals of the State;

(II) identifies performance-based measures by which progress toward those goals will be determined; and

(III) will be submitted to the highway safety data and traffic records coordinating committee of the State for approval; or

(B) provides, to the satisfaction of the Secretary--

(i) a certification that the State has met the requirements of clauses (i) and (ii) of subparagraph (A);

(ii) a multiyear highway safety data and traffic records strategic plan that--

(I) meets the requirements of subparagraph (A)(iii); and

(II) specifies how the incentive funds of the State for the fiscal year will be used to address needs and goals identified in the plan; and

(iii) a certification that the highway safety data and traffic records coordinating committee of the State continues to operate and supports the multiyear plan described in clause (ii).

(2) Grant amounts. The amount of a first-year grant made to a State for a fiscal year under this subsection shall equal--

(A) if the State is eligible for the grant under paragraph (1)(A), \$125,000; and

(B) if the State is eligible for the grant under paragraph (1)(B), an amount determined by multiplying--

(i) the amount appropriated to carry out this section for such fiscal year; by

(ii) the ratio that the funds apportioned to the State under section 402 for fiscal year 1997 bears to the funds apportioned to all States under section 402 for fiscal year 1997;

except that no State eligible for a grant under paragraph (1)(B) shall receive less than \$250,000.

(3) States not meeting criteria. The Secretary may award a grant of up to \$25,000 for 1 year to any State that does not meet the criteria established in paragraph (1). The grant may only be used to conduct activities needed to enable the State to qualify for a first-year grant in the next fiscal year.

(c) Succeeding year grants.

(1) Eligibility. A State shall be eligible for a grant under this subsection in a fiscal year succeeding the first fiscal year in which the State receives a grant under subsection (b) if the

State, to the satisfaction of the Secretary--

(A) submits or updates a multiyear highway safety data and traffic records strategic plan that meets the requirements of subsection (b)(1);

(B) certifies that the highway safety data and traffic records coordinating committee of the State continues to operate and supports the multiyear plan; and

(C) reports annually on the progress of the State in implementing the multiyear plan.

(2) Grant amounts. The amount of a succeeding year grant made to the State for a fiscal year under this paragraph shall equal the amount determined by multiplying--

(A) the amount appropriated to carry out this section for such fiscal year; by

(B) the ratio that the funds apportioned to the State under section 402 for fiscal year 1997 bears to the funds apportioned to all States under section 402 for fiscal year 1997;

except that no State eligible for a grant under this paragraph shall receive less than \$225,000.

[(d)](c)* Administrative expenses. Funds authorized to be appropriated to carry out this section in a fiscal year shall be subject to a deduction not to exceed 5 percent for the necessary costs of administering the provisions of this section.

[(e)](d)* Applicability of Chapter 1 [23 USCS §§ 101 et seq.]. The provisions contained in section 402(d) shall apply to this section.

*So in the original. This mistake in lettering should be corrected by a technical amendment.

RELATED HIGHWAY SAFETY PROVISIONS

Chapter 1. – Federal-Aid Highways

Sec.

- 153. Use of safety belts and motorcycle helmets.
- 154. Open container requirements.
- 157. Safety incentive grants for use of seat belts.
- 158. National minimum drinking age.
- 161. Operation of motor vehicles by intoxicated minors.
- 163. Safety incentives to prevent operation of motor vehicles by intoxicated persons.
Withholding provisions
- 164. Minimum penalties for repeat offenders for driving while intoxicated or driving under the influence.

§ 153. Use of safety belts and motorcycle helmets

(a) Authority to make grants. The Secretary may make grants to a State in a fiscal year in accordance with this section if the State has in effect in such fiscal year--

(1) a law which makes unlawful throughout the State the operation of a motorcycle if any individual on the motorcycle is not wearing a motorcycle helmet; and

(2) a law which makes unlawful throughout the State the operation of a passenger vehicle whenever an individual in a front seat of the vehicle (other than a child who is secured in a child restraint system) does not have a safety belt properly fastened about the individual's body.

(b) Use of grants. A grant made to a State under this section shall be used to adopt and implement a traffic safety program to carry out the following purposes:

(1) Education. To educate the public about motorcycle and passenger vehicle safety and motorcycle helmet, safety belt, and child restraint system use and to involve public health education agencies and other related agencies in these efforts.

(2) Training. To train law enforcement officers in the enforcement of State laws described in subsection (a).

(3) Monitoring. To monitor the rate of compliance with State laws described in subsection (a).

(4) Enforcement. To enforce State laws described in subsection (a).

(c) Maintenance of effort. A grant may not be made to a State under this section in any fiscal year unless the State enters into such agreements with the Secretary as the Secretary may require to ensure that the State will maintain its aggregate expenditures from all other sources for any traffic safety program described in subsection (b) at or above the average level of such

expenditures in the State's 2 fiscal years preceding the date of the enactment of this section [Dec. 18, 1991].

(d) Federal share. A State may not receive a grant under this section in more than 3 fiscal years. The Federal share payable for a grant under this section shall not exceed--

(1) in the first fiscal year the State receives a grant, 75 percent of the cost of implementing in such fiscal year a traffic safety program described in subsection (b);

(2) in the second fiscal year the State receives a grant, 50 percent of the cost of implementing in such fiscal year such traffic safety program; and

(3) in the third fiscal year the State receives a grant, 25 percent of the cost of implementing in such fiscal year such traffic safety program.

(e) Maximum aggregate amount of grants. The aggregate amount of grants made to a State under this section shall not exceed 90 percent of the amount apportioned to such State for fiscal year 1990 under section 402.

(f) Eligibility for grants.

(1) General rule. A State is eligible in a fiscal year for a grant under this section only if the State enters into such agreements with the Secretary as the Secretary may require to ensure that the State implements in such fiscal year a traffic safety program described in subsection (b).

(2) Second-year grants. A State is eligible for a grant under this section in a fiscal year succeeding the first fiscal year in which a State receives a grant under this section only if the State in the preceding fiscal year--

(A) had in effect at all times a State law described in subsection (a)(1) and achieved a rate of compliance with such law of not less than 75 percent; and

(B) had in effect at all times a State law described in subsection (a)(2) and achieved a rate of compliance with such law of not less than 50 percent.

(3) Third-year grants. A State is eligible for a grant under this section in a fiscal year succeeding the second fiscal year in which a State receives a grant under this section only if the State in the preceding fiscal year--

(A) had in effect at all times a State law described in subsection (a)(1) and achieved a rate of compliance with such law of not less than 85 percent; and

(B) had in effect at all times a State law described in subsection (a)(2) and achieved a rate of compliance with such law of not less than 70 percent.

(g) Measurements of rates of compliance. For the purposes of subsections (f)(2) and (f)(3), a State shall measure compliance with State laws described in subsection (a) using methods which conform to guidelines issued by the Secretary ensuring that such measurements are accurate and representative.

(h) Penalty.

(1) Fiscal year 1994. If, at any time in fiscal year 1994, a State does not have in effect a law described in subsection (a)(2), the Secretary shall transfer 1 ½ percent of the funds apportioned to

the State for fiscal year 1995 under each of subsections (b)(1), (b)(2), and (b)(3) of section 104 of this title to the apportionment of the State under section 402 of this title.

(2) Thereafter. If, at any time in a fiscal year beginning after September 30, 1994, a State does not have in effect a law described in subsection (a)(2), the Secretary shall transfer 3 percent of the funds apportioned to the State for the succeeding fiscal year under each of subsections (b)(1), (b)(2), and (b)(3) of section 104 of this title to the apportionment of the State under section 402 of this title.

(3) Federal share. The Federal share of the cost of any project carried out under section 402 with funds transferred to the apportionment of section 402 shall be 100 percent.

(4) Transfer of obligation authority. If the Secretary transfers under this subsection any funds to the apportionment of a State under section 402 for a fiscal year, the Secretary shall allocate an amount of obligation authority distributed for such fiscal year to the State for Federal-aid highways and highway safety construction programs for carrying out only projects under section 402 which is determined by multiplying--

(A) the amount of funds transferred to the apportionment of section 402 of the State under section 402 for such fiscal year; by

(B) the ratio of the amount of obligation authority distributed for such fiscal year to the State for Federal-aid highways and highway safety construction programs to the total of the sums apportioned to the State for Federal-aid highways and highway safety construction (excluding sums not subject to any obligation limitation) for such fiscal year.

(5) Limitation on applicability of highway safety obligations. Notwithstanding any other provision of law, no limitation on the total of obligations for highway safety programs carried out by the Federal Highway Administration under section 402 shall apply to funds transferred under this subsection to the apportionment of section 402.

(i) Definitions. For the purposes of this section, the following definitions apply:

(1) Motorcycle. The term "motorcycle" means a motor vehicle which is designed to travel on not more than 3 wheels in contact with the surface.

(2) Motor vehicle. The term "motor vehicle" has the meaning such term has under section 154 of this title.

(3) Passenger vehicle. The term "passenger vehicle" means a motor vehicle which is designed for transporting 10 individuals or less, including the driver, except that such term does not include a vehicle which is constructed on a truck chassis, a motorcycle, a trailer, or any motor vehicle which is not required on the date of the enactment of this section under a Federal motor vehicle safety standard to be equipped with a belt system.

(4) Safety belt. The term "safety belt" means--

(A) with respect to open-body passenger vehicles, including convertibles, an occupant restraint system consisting of a lap belt or a lap belt and a detachable shoulder belt; and

(B) with respect to other passenger vehicles, an occupant restraint system consisting of integrated lap shoulder belts.

(j) Authorization of appropriations. There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this section \$17,000,000 for fiscal

year 1992. From sums made available to carry out section 402 of this title, the Secretary shall make available \$17,000,000 for fiscal year 1992 and \$24,000,000 for each of fiscal years 1993 and 1994 to carry out this section.

(k) Applicability of Chapter 1 provisions. All provisions of this chapter [23 USCS §§ 101 et seq.] that are applicable to National Highway System funds, other than provisions relating to the apportionment formula and provisions limiting the expenditures of such funds to Federal-aid systems, shall apply to funds authorized to be appropriated to carry out this section, except as determined by the Secretary to be inconsistent with this section and except that sums authorized by this section shall remain available until expended.

§ 154. Open container requirements

(a) Definitions. In this section, the following definitions apply:

(1) Alcoholic beverage. The term "alcoholic beverage" has the meaning given the term in section 158(c).

(2) Motor vehicle. The term "motor vehicle" means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public highways, but does not include a vehicle operated exclusively on a rail or rails.

(3) Open alcoholic beverage container. The term "open alcoholic beverage container" means any bottle, can, or other receptacle--

(A) that contains any amount of alcoholic beverage; and

(B) (i) that is open or has a broken seal; or

(ii) the contents of which are partially removed.

(4) Passenger area. The term "passenger area" shall have the meaning given the term by the Secretary by regulation.

(b) Open container laws.

(1) In general. For the purposes of this section, each State shall have in effect a law that prohibits the possession of any open alcoholic beverage container, or the consumption of any alcoholic beverage, in the passenger area of any motor vehicle (including possession or consumption by the driver of the vehicle) located on a public highway, or the right-of-way of a public highway, in the State.

(2) Motor vehicles designed to transport many passengers. For the purposes of this section, if a State has in effect a law that makes unlawful the possession of any open alcoholic beverage container by the driver (but not by a passenger)--

(A) in the passenger area of a motor vehicle designed, maintained, or used primarily for the transportation of persons for compensation; or

(B) in the living quarters of a house coach or house trailer,

the State shall be deemed to have in effect a law described in this subsection with respect to such a motor vehicle for each fiscal year during which the law is in effect.

(c) Transfer of funds.

(1) Fiscal years 2001 and 2002. On October 1, 2000, and October 1, 2001, if a State has not enacted or is not enforcing an open container law described in subsection (b), the Secretary shall transfer an amount equal to 1 ½ percent of the funds apportioned to the State on that date under each of paragraphs (1), (3), and (4) of section 104(b) to the apportionment of the State under section 402--

(A) to be used for alcohol-impaired driving countermeasures; or

(B) to be directed to State and local law enforcement agencies for enforcement of laws prohibiting driving while intoxicated or driving under the influence and other related laws (including regulations), including the purchase of equipment, the training of officers, and the use of additional personnel for specific alcohol-impaired driving countermeasures, dedicated to enforcement of the laws (including regulations).

(2) Fiscal year 2003 and fiscal years thereafter. On October 1, 2002, and each October 1 thereafter, if a State has not enacted or is not enforcing an open container law described in subsection (b), the Secretary shall transfer an amount equal to 3 percent of the funds apportioned to the State on that date under each of paragraphs (1), (3), and (4) of section 104(b) to the apportionment of the State under section 402 to be used or directed as described in subparagraph (A) or (B) of paragraph (1).

(3) Use for hazard elimination program. A State may elect to use all or a portion of the funds transferred under paragraph (1) or (2) for activities eligible under section 152.

(4) Federal share. The Federal share of the cost of a project carried out with funds transferred under paragraph (1) or (2), or used under paragraph (3), shall be 100 percent.

(5) Derivation of amount to be transferred. The amount to be transferred under paragraph (1) or (2) may be derived from one or more of the following:

(A) The apportionment of the State under section 104(b)(1).

(B) The apportionment of the State under section 104(b)(3).

(C) The apportionment of the State under section 104(b)(4).

(6) Transfer of obligation authority.

(A) In general. If the Secretary transfers under this subsection any funds to the apportionment of a State under section 402 for a fiscal year, the Secretary shall transfer an amount, determined under subparagraph (B), of obligation authority distributed for the fiscal year to the State for Federal-aid highways and highway safety construction programs for carrying out projects under section 402.

(B) Amount. The amount of obligation authority referred to in subparagraph (A) shall be determined by multiplying--

(i) the amount of funds transferred under subparagraph (A) to the apportionment of the State under section 402 for the fiscal year, by

(ii) the ratio that--

(I) the amount of obligation authority distributed for the fiscal year to the State for Federal-aid highways and highway safety construction programs, bears to

(II) the total of the sums apportioned to the State for Federal-aid highways and highway safety construction programs (excluding sums not subject to any obligation limitation) for the fiscal year.

(7) Limitation on applicability of obligation limitation. Notwithstanding any other provision of law, no limitation on the total of obligations for highway safety programs under section 402 shall apply to funds transferred under this subsection to the apportionment of a State under such section.

§ 157. Safety incentive grants for use of seat belts

(a) Definitions. In this section, the following definitions apply:

(1) Motor vehicle. The term "motor vehicle" means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public highways, but does not include a vehicle operated solely on a rail line.

(2) Multipurpose passenger motor vehicle. The term "multipurpose passenger motor vehicle" means a motor vehicle with motive power (except a trailer), designed to carry not more than 10 individuals, that is constructed on a truck chassis or is constructed with special features for occasional off-road operation.

(3) National average seat belt use rate. The term "national average seat belt use rate" means, in the case of each of calendar years 1996 through 2001, the national average seat belt use rate for that year, as determined by the Secretary.

(4) Passenger car. The term "passenger car" means a motor vehicle with motive power (except a multipurpose passenger motor vehicle, motorcycle, or trailer) designed to carry not more than 10 individuals.

(5) Passenger motor vehicle. The term "passenger motor vehicle" means a passenger car or a multipurpose passenger motor vehicle.

(6) Savings to the Federal Government. The term "savings to the Federal Government" means the amount of Federal budget savings relating to Federal medical costs (including savings under the medicare and medicaid programs under titles XVIII and XIX of the Social Security Act (42 U.S.C. 1395 et seq.)), as determined by the Secretary.

(7) Seat belt. The term "seat belt" means--

(A) with respect to an open-body passenger motor vehicle, including a convertible, an occupant restraint system consisting of a lap belt or a lap belt and a detachable shoulder belt; and

(B) with respect to any other passenger motor vehicle, an occupant restraint system consisting of integrated lap and shoulder belts.

(8) State seat belt use rate. The term "State seat belt use rate" means the rate of use of seat belts in passenger motor vehicles in a State, as measured and submitted to the Secretary--

(A) for each of calendar years 1996 and 1997, by the State, as weighted by the Secretary to ensure national consistency in methods of measurement (as determined by the Secretary); and

(B) for each of calendar years 1998 through 2001, by the State in a manner consistent with the criteria established by the Secretary under subsection (e).

(b) Determinations by the Secretary. Not later than September 1, 1998, and September 1 of each calendar year thereafter through September 1, 2002, the Secretary shall determine--

(1) (A) which States had, for each of the previous calendar years (in this subsection referred to

as the "previous calendar year") and the year preceding the previous calendar year, a State seat belt use rate greater than the national average seat belt use rate for that year; and

(B) in the case of each State described in subparagraph (A), the amount that is equal to the savings to the Federal Government due to the amount by which the State seat belt use rate for the previous calendar year exceeds the national average seat belt use rate for that year; and

(2) in the case of each State that is not a State described in paragraph (1)(A)--

(A) the base seat belt use rate of the State, which shall be equal to the highest State seat belt use rate for the State for any calendar year during the period of 1996 through the calendar year preceding the previous calendar year; and

(B) the amount that is equal to the savings to the Federal Government due to any increase in the State seat belt use rate for the previous calendar year over the base seat belt use rate determined under subparagraph (A).

(c) Allocations.

(1) States with greater than the national average seat belt use rate. Not later than October 1, 1998, and each October 1 thereafter through October 1, 2002, the Secretary shall allocate to each State described in subsection (b)(1)(A) an amount equal to the amount determined for the State under subsection (b)(1)(B).

(2) Other States. Not later than October 1, 1998, and each October 1 thereafter through October 1, 2002, the Secretary shall allocate to each State described in subsection (b)(2) an amount equal to the amount determined for the State under subsection (b)(2)(B).

(d) Use of amounts. For each fiscal year, each State that is allocated an amount under this section shall use the amount for projects eligible for assistance under this title.

(e) Criteria. Not later than 180 days after the date of enactment of this section [enacted June 9, 1998], the Secretary shall establish criteria for the measurement of State seat belt use rates by States to ensure that the measurements are accurate and representative.

(f) Innovative seat belt project allocations.

(1) In general. The Secretary shall use amounts made available under subsection (g)(3) to make allocations to States to carry out innovative projects to promote increased seat belt use rates.

(2) Determination of eligibility. To be eligible to receive an allocation under this subsection for a fiscal year, a State shall--

(A) develop a plan for innovative projects described in paragraph (1); and

(B) submit the plan to the Secretary not later than March 1 of the fiscal year.

(3) Plan selection.

(A) Criteria. Not later than December 1, 1998, the Secretary shall establish criteria for the selection of State plans for allocations under this subsection.

(B) Selection. The Secretary shall select State plans for allocations under this subsection in accordance with the criteria established under subparagraph (A).

(C) States. In carrying out this paragraph, the Secretary shall ensure, to the maximum extent practicable, demographic and geographic diversity and a diversity of seat belt use rates among the

States selected for allocations.

(4) Allocation. Not later than October 1, 1999, and each October 1 thereafter through October 1, 2002, the Secretary shall allocate funds to the States whose plans were selected under paragraph (3).

(5) Amount of allocations. Subject to the availability of unallocated amounts under subsection (g)(3), the amount of each allocation to a State under this subsection shall be not less than \$100,000 for each fiscal year that is covered by a State plan.

(6) Use of allocations. An allocation to a State under this subsection shall be used to carry out the innovative seat belt projects described in the State plan for which the allocation is awarded.

(7) Federal share. The Federal share of the cost of an innovative seat belt project under this section shall be 100 percent.

(8) Period of availability. Amounts allocated to a State under this subsection shall remain available for obligation in the State for a period of 3 years after the last day of the fiscal year for which the amounts are allocated.

(g) Funding.

(1) In general. There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section \$82,000,000 for fiscal year 1999, \$92,000,000 for fiscal year 2000, \$102,000,000 for fiscal year 2001, \$112,000,000 for fiscal year 2002, and \$112,000,000 for fiscal year 2003.

(2) Proportionate adjustment. If the total amounts to be allocated under subsection (c) for any fiscal year would exceed the amounts authorized for the fiscal year under paragraph (1), the allocation to each State under subsection (c) shall be reduced proportionately.

(3) Use of unallocated funds.

(A) Fiscal year 1999. To the extent that the amounts made available for fiscal year 1999 under paragraph (1) exceed the total amounts to be allocated under subsection (c) for fiscal year 1999, the excess amounts--

(i) shall be apportioned in accordance with section 104(b)(3);

(ii) shall be considered to be sums made available for expenditure on the surface transportation program, except that the amounts shall not be subject to section 133(d); and

(iii) shall be available for any purpose eligible for funding under section 133.

(B) Fiscal years 2000 through 2003. To the extent that the amounts made available for any of fiscal years 2000 through 2003 under paragraph (1) exceed the total amounts to be allocated under subsection (c) for the fiscal year, the excess amounts shall be used to make allocations under subsection (f).

§ 158. National minimum drinking age

(a) Withholding of funds for noncompliance.

(1) In general. The Secretary shall withhold 10 per centum of the amount required to be apportioned to any State under each of sections 104(b)(1), 104(b)(2), 104(b)(5), and 104(b)(6) of this title on the first day of each fiscal year after the second fiscal year beginning after September 30, 1985, in which the purchase or public possession in such State of any alcoholic beverage by a

person who is less than twenty-one years of age is lawful.

(2) State grandfather law as complying. If, before the later of (A) October 1, 1986, or (B) the tenth day following the last day of the first session the legislature of a State convenes after the date of the enactment of this paragraph [enacted April 7, 1986], such State has in effect a law which makes unlawful the purchase and public possession in such State of any alcoholic beverage by a person who is less than 21 years of age (other than any person who is 18 years of age or older on the day preceding the effective date of such law and at such time could lawfully purchase or publicly possess any alcoholic beverage in such State), such State shall be deemed to be in compliance with paragraphs (1) and (2) of this subsection in each fiscal year in which such law is in effect.

(3) [Redesignated]

(b) Effect of withholding of funds. No funds withheld under this section from apportionment to any State after September 30, 1988, shall be available for apportionment to that State.

(c) Alcoholic beverage defined. As used in this section, the term "alcoholic beverage" means--

(1) beer as defined in section 5052(a) of the Internal Revenue Code of 1954 [26 USCS § 5052(a)],

(2) wine of not less than one-half of 1 per centum of alcohol by volume, or

(3) distilled spirits as defined in section 5002(a)(8) of such Code [26 USCS § 5002(a)(8)].

§ 161. Operation of motor vehicles by intoxicated minors

(a) Withholding of apportionments for noncompliance.

(1) Fiscal year 1999. The Secretary shall withhold 5 percent of the amount required to be apportioned to any State under each of paragraphs (1), (3), and (4) of section 104(b) on October 1, 1998, if the State does not meet the requirement of paragraph (3) on that date.

(2) Thereafter. The Secretary shall withhold 10 percent (including any amounts withheld under paragraph (1)) of the amount required to be apportioned to any State under each of paragraphs (1), (3), and (4) of section 104(b) on October 1, 1999, and on October 1 of each fiscal year thereafter, if the State does not meet the requirement of paragraph (3) on that date.

(3) Requirement. A State meets the requirement of this paragraph if the State has enacted and is enforcing a law that considers an individual under the age of 21 who has a blood alcohol concentration of 0.02 percent or greater while operating a motor vehicle in the State to be driving while intoxicated or driving under the influence of alcohol.

(b) Period of availability; effect of compliance and noncompliance.

(1) Period of availability of withheld funds.

(A) Funds withheld on or before September 30, 2000. Any funds withheld under subsection (a) from apportionment to any State on or before September 30, 2000, shall remain available until the end of the third fiscal year following the fiscal year for which the funds are authorized to be appropriated.

(B) Funds withheld after September 30, 2000. No funds withheld under this section from

apportionment to any State after September 30, 2000, shall be available for apportionment to the State.

(2) Apportionment of withheld funds after compliance. If, before the last day of the period for which funds withheld under subsection (a) from apportionment are to remain available for apportionment to a State under paragraph (1), the State meets the requirement of subsection (a)(3), the Secretary shall, on the first day on which the State meets the requirement, apportion to the State the funds withheld under subsection (a) that remain available for apportionment to the State.

(3) Period of availability of subsequently apportioned funds. Any funds apportioned pursuant to paragraph (2) shall remain available for expenditure until the end of the third fiscal year following the fiscal year in which the funds are so apportioned. Sums not obligated at the end of that period shall lapse.

(4) Effect of noncompliance. If, at the end of the period for which funds withheld under subsection (a) from apportionment are available for apportionment to a State under paragraph (1), the State does not meet the requirement of subsection (a)(3), the funds shall lapse.

§ 163. Safety incentives to prevent operation of motor vehicles by intoxicated persons

(a) General authority. The Secretary shall make a grant, in accordance with this section, to any State that has enacted and is enforcing a law that provides that any person with a blood alcohol concentration of 0.08 percent or greater while operating a motor vehicle in the State shall be deemed to have committed a per se offense of driving while intoxicated (or an equivalent per se offense).

(b) Grants. For each fiscal year, funds authorized to carry out this section shall be apportioned to each State that has enacted and is enforcing a law meeting the requirements of subsection (a) in an amount determined by multiplying--

(1) the amount authorized to carry out this section for the fiscal year; by

(2) the ratio that the amount of funds apportioned to each such State under section 402 for such fiscal year bears to the total amount of funds apportioned to all such States under section 402 for such fiscal year.

(c) Use of grants. A State may obligate funds apportioned under subsection (b) for any project eligible for assistance under this title.

(d) Federal share. The Federal share of the cost of a project funded under this section shall be 100 percent.

(e) Authorization of appropriations.

(1) In general. There are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this section \$55,000,000 for fiscal year 1998, \$65,000,000 for fiscal year 1999, \$80,000,000 for fiscal year 2000, \$90,000,000 for fiscal year 2001, \$100,000,000 for fiscal year 2002, and \$110,000,000 for fiscal year 2003.

(2) Availability of funds. Notwithstanding section 118(b)(2), the funds authorized by this subsection shall remain available until expended.

UNCODIFIED PROVISION: 23 USC 163 note.
DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES
APPROPRIATIONS, 2001
October 23, 2000, Pub. L. 106-346–APPENDIX, 114 Stat. 1356A-35

“Sec. 351. Notwithstanding any other provision of law, beginning in fiscal year 2004, the Secretary shall withhold 2 percent of the amount required to be apportioned for Federal-aid highways to any State under each of paragraphs (1), (3), and (4) of section 104(b) of title 23, United States Code, if a State has not enacted and is not enforcing a provision described in section 163(a) of chapter 1 of title 23, United States Code, in fiscal year 2005, the Secretary shall withhold 4 percent of the amount required to be apportioned for Federal-aid highways to any State under each of paragraphs (1), (3), and (4) of section 104(b) of title 23, United States Code, if a State has not enacted and is not enforcing a provision described in section 163(a) of title 23, United States Code; in fiscal year 2006, the Secretary shall withhold 6 percent of the amount required to be apportioned for Federal-aid highways to any State under each of paragraphs (1), (3), and (4) of section 104(b) of title 23, United States Code, if a State has not enacted and is not enforcing a provision described in section 163(a) of title 23, United States Code; and beginning in fiscal year 2007, and in each fiscal year thereafter, the Secretary shall withhold 8 percent of the amount required to be apportioned for Federal-aid highways to any State under each of paragraphs (1), (3), and (4) of section 104(b) of title 23, United States Code, if a State has not enacted and is not enforcing a provision described in section 163(a) of title 23, United States Code. If within 4 years from the date the apportionment for any State is reduced in accordance with this section the Secretary determines that such State has enacted and is enforcing a provision described in section 163(a) of chapter 1 of title 23, United States Code, the apportionment of such State shall be increased by an amount equal to such reduction. If at the end of such 4-year period, any State has not enacted and is not enforcing a provision described in section 163(a) of title 23, United States Code, any amounts so withheld shall lapse.”.

§ 164. Minimum penalties for repeat offenders for driving while intoxicated or driving under the influence

(a) Definitions. In this section, the following definitions apply:

(1) Alcohol concentration. The term "alcohol concentration" means grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

(2) Driving while intoxicated; driving under the influence. The terms "driving while intoxicated" and "driving under the influence" mean driving or being in actual physical control of a motor vehicle while having an alcohol concentration above the permitted limit as established by each State.

(3) License suspension. The term "license suspension" means the suspension of all driving privileges.

(4) Motor vehicle. The term "motor vehicle" means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public highways, but does not include a vehicle operated solely on a rail line or a commercial vehicle.

(5) Repeat intoxicated driver law. The term "repeat intoxicated driver law" means a State law that provides, as a minimum penalty, that an individual convicted of a second or subsequent offense for driving while intoxicated or driving under the influence after a previous conviction for that offense shall--

(A) receive a driver's license suspension for not less than 1 year;

(B) be subject to the impoundment or immobilization of each of the individual's motor vehicles or the installation of an ignition interlock system on each of the motor vehicles;

(C) receive an assessment of the individual's degree of abuse of alcohol and treatment as appropriate; and

(D) receive--

(i) in the case of the second offense--

(I) an assignment of not less than 30 days of community service; or

(II) not less than 5 days of imprisonment; and

(ii) in the case of the third or subsequent offense--

(I) an assignment of not less than 60 days of community service; or

(II) not less than 10 days of imprisonment.

(b) Transfer of funds.

(1) Fiscal years 2001 and 2002. On October 1, 2000, and October 1, 2001, if a State has not enacted or is not enforcing a repeat intoxicated driver law, the Secretary shall transfer an amount equal to 1 ½ percent of the funds apportioned to the State on that date under each of paragraphs (1), (3), and (4) of section 104(b) to the apportionment of the State under section 402--

(A) to be used for alcohol-impaired driving countermeasures; or

(B) to be directed to State and local law enforcement agencies for enforcement of laws prohibiting driving while intoxicated or driving under the influence and other related laws (including regulations), including the purchase of equipment, the training of officers, and the use of additional personnel for specific alcohol-impaired driving countermeasures, dedicated to enforcement of the laws (including regulations).

(2) Fiscal year 2003 and fiscal years thereafter. On October 1, 2002, and each October 1 thereafter, if a State has not enacted or is not enforcing a repeat intoxicated driver law, the Secretary shall transfer an amount equal to 3 percent of the funds apportioned to the State on that date under each of paragraphs (1), (3), and (4) of section 104(b) to the apportionment of the State under section 402 to be used or directed as described in subparagraph (A) or (B) of paragraph (1).

(3) Use for hazard elimination program. A State may elect to use all or a portion of the funds transferred under paragraph (1) or (2) for activities eligible under section 152.

(4) Federal share. The Federal share of the cost of a project carried out with funds transferred under paragraph (1) or (2), or used under paragraph (3), shall be 100 percent.

(5) Derivation of amount to be transferred. The amount to be transferred under paragraph (1) or (2) may be derived from one or more of the following:

(A) The apportionment of the State under section 104(b)(1).

(B) The apportionment of the State under section 104(b)(3).

(C) The apportionment of the State under section 104(b)(4).

(6) Transfer of obligation authority.

(A) In general. If the Secretary transfers under this subsection any funds to the apportionment of a State under section 402 for a fiscal year, the Secretary shall transfer an amount, determined under subparagraph (B), of obligation authority distributed for the fiscal year to the State for Federal-aid highways and highway safety construction programs for carrying out projects under section 402.

(B) Amount. The amount of obligation authority referred to in subparagraph (A) shall be determined by multiplying--

(i) the amount of funds transferred under subparagraph (A) to the apportionment of the State under section 402 for the fiscal year, by

(ii) the ratio that--

(I) the amount of obligation authority distributed for the fiscal year to the State for Federal-aid highways and highway safety construction programs, bears to

(II) the total of the sums apportioned to the State for Federal-aid highways and highway safety construction programs (excluding sums not subject to any obligation limitation) for the fiscal year.

(7) Limitation on applicability of obligation limitation. Notwithstanding any other provision of law, no limitation on the total of obligations for highway safety programs under section 402 shall apply to funds transferred under this subsection to the apportionment of a State under such section.

PUBLIC LAW 105-178 (TRANSPORTATION EQUITY ACT FOR THE 21ST CENTURY)

Sec.

2009. Authorizations of Appropriations

5207. Research and Development [Intelligent Transportation Systems]

§ 2009. AUTHORIZATIONS OF APPROPRIATIONS.

(a) In General.--The following sums are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account):

(1) Highway safety programs.-- For carrying out section 402 of title 23, United States Code, \$149,700,000 for fiscal year 1998, \$150,000,000 for fiscal year 1999, \$152,800,000 for fiscal year 2000, \$155,000,000 for fiscal year 2001, \$160,000,000 for fiscal year 2002, and \$165,000,000 for fiscal year 2003.

(2) Highway safety research and development.-- For carrying out section 403 of title 23, United States Code, \$72,000,000 for each of fiscal years 1998 through 2003.

(3) Occupant protection incentive grants.-- For carrying out section 405 of title 23, United States Code, \$10,000,000 for each of fiscal years 1999 and 2000, \$13,000,000 for fiscal year 2001, \$15,000,000 for fiscal year 2002, and \$20,000,000 for fiscal year 2003.

(4) Alcohol-impaired driving countermeasures incentive grant program.-- For carrying out section 410 of title 23, United States Code, \$34,500,000 for fiscal year 1998, \$35,000,000 for fiscal year 1999, \$36,000,000 for each of fiscal years 2000 and 2001, \$38,000,000 for fiscal year 2002, and \$40,000,000 for fiscal year 2003.

(5) State highway safety data grants.-- For carrying out section 411 of title 23, United States Code, \$5,000,000 for fiscal year 1999, \$8,000,000 for fiscal year 2000, \$9,000,000 for fiscal year 2001, and \$10,000,000 for fiscal year 2002.

(6) National driver register.-- For carrying out chapter 303 of title 49, United States Code, by the National Highway Traffic Safety Administration, \$2,000,000 for each of fiscal years 1998 through 2003.

(b) Allocations.--

(1) Drugs and driver behavior.-- Out of amounts appropriated pursuant to subsection (a)(2) for fiscal years 1998 through 2003, the Secretary may use--

(A) not to exceed \$2,000,000 per fiscal year to carry out paragraphs (1) through (3) of section 403(b) of title 23, United States Code; and

(B) not to exceed \$1,000,000 per fiscal year to carry out paragraph (4) of such section.

(2) Public education effort.-- Out of amounts appropriated pursuant to subsection (a)(2) for fiscal years 1998 through 2003, the Secretary shall obligate at least \$500,000 per fiscal year to educate the motoring public on how to share the road safely with commercial motor vehicles.

(c) Applicability of Title 23.--Amounts made available under subsection (a)(2) for each of fiscal years 1999 through 2003 shall be available for obligation in the same manner as if such funds

were apportioned under chapter 1 of title 23, United States Code.

(d) Transfers.--In each fiscal year, the Secretary may transfer any amounts remaining available under paragraph (3), (4), or (5) of subsection (a) to the amounts made available under any other of such paragraphs in order to ensure, to the maximum extent possible, that each State receives the maximum incentive funding for which the State is eligible under sections 405, 410, and 411 of title 23, United States Code.

INTELLIGENT TRANSPORTATION SYSTEMS

§ 5207. <23 USC 502 note> RESEARCH AND DEVELOPMENT.

(a) In General.--The Secretary shall carry out a comprehensive program of intelligent transportation system research, development and operational tests of intelligent vehicles and intelligent infrastructure systems, and other similar activities that are necessary to carry out this subtitle.

(b) Priority Areas.--Under the program, the Secretary shall give higher priority to funding projects that--

- (1) address traffic management, incident management, transit management, toll collection, traveler information, or highway operations systems;
- (2) focus on crash-avoidance and integration of in-vehicle crash protection technologies with other on-board safety systems, including the interaction of air bags and safety belts;
- (3) incorporate human factors research, including the science of the driving process;
- (4) facilitate the integration of intelligent infrastructure, vehicle, and control technologies, including magnetic guidance control systems or other materials or magnetics research; or
- (5) incorporate research on the impact of environmental, weather, and natural conditions on intelligent transportation systems, including the effects of cold climates.

(c) Operational Tests.--Operational tests conducted under this section shall be designed for the collection of data to permit objective evaluation of the results of the tests, derivation of cost-benefit information that is useful to others contemplating deployment of similar systems, and development and implementation of standards.

(d) Federal Share.--The Federal share of the cost of operational tests and demonstrations under subsection (a) shall not exceed 80 percent.